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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,290	03/01/2004	Robert Frink		9518

7590 11/14/2006

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EXAMINER

HEWITT, JAMES M

ART UNIT PAPER NUMBER

3679

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/790,290	FRINK, ROBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	James M. Hewitt	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/14/06 & 8/30/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☒ Claim(s) 15-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 8/14/06 fails to comply with 37 CFR 1.97(c) because it lacks one of: a statement as specified in 37 CFR 1.97(e); or the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

The drawings were received on 8/30/06. These drawings are acceptable.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The following does not find proper antecedent basis in the specification: the base (claim 15); and the subject matter of claim 16.

The amendment to the specification filed 8/30/06 is improper. Note the following recitation of 37 C.F.R. 1.121(b):

*(b) Specification . Amendments to the specification, other than the claims, computer listings (§ 1.96) and sequence listings (§ 1.825), must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification, in the manner specified in this section. (1) Amendment to delete, replace, or add a paragraph. Amendments to the specification, including amendment to a section heading or the title of the invention which are considered for amendment purposes to be an amendment of a paragraph, must be made by submitting: (i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs;(ii) The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The*

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*text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived; (iii) The full text of any added paragraphs without any underlining; and (iv) The text of a paragraph to be deleted must not be presented with strike-through or placed within double brackets. The instruction to delete may identify a paragraph by its paragraph number or include a few words from the beginning, and end, of the paragraph, if needed for paragraph identification purposes. (2) Amendment by replacement section. If the sections of the specification contain section headings as provided in § 1.77(b), § 1.154(b), or § 1.163(c), amendments to the specification, other than the claims, may be made by submitting: (i) A reference to the section heading along with an instruction, which unambiguously identifies the location, to delete that section of the specification and to replace such deleted section with a replacement section; and; (ii) A replacement section with markings to show all changes relative to the previous version of the section. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived.*

Applicant should resubmit the amendment with a preface including an instruction which unambiguously identifies the section that is being replaced.

The replacement abstract filed 8/14/06 is also improper as it does not include markings to show changes relative to the immediate prior version of the abstract. See 37 C.F.R. 1.121(b). Applicant should resubmit the replacement abstract with appropriate markings.

### ***Claim Objections***

Claims 11 and 15-16 are objected to because of the following informalities:

In claim 11, line 1, the letter "c" that appears at the end of the line should be deleted.

In claim 15, stating that the connector *is*: ... makes it unclear as to whether Applicant intends for the recited base and exhaust pipe adapter to be part of the

connector. Note claim 9, which requires the connector to include the exhaust pipe adapter.

In claim 15, line 10, "said exhaust pipe connector" lacks proper antecedent basis.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Rich (US 4,779,904).

With respect to claim 14, Rich discloses a vehicle exhaust system hose and coupling assembly comprising: a snap ring (22); and an exhaust pipe adapter (10) connected to an exhaust pipe (12 or 14), said exhaust pipe adapter containing a seat (36) sized to accommodate said snap ring.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zima et al (US 5,453,048) in view of Nordin (US 5,518,447).

Zima et al disclose a vehicle exhaust system hose and coupling assembly comprising: a suspended pipe (upper elbow connected to duct-work 22 as shown in Fig. 2); a flexible hose (42) having a first end (42.1) and a second end (42.3); a nozzle (62) having an inlet and an outlet and a connector; said flexible hose first end being connected to said pipe (via 40) and said flexible hose second end being connected to said nozzle outlet (see Fig. 3). Zima et al fails to teach a tether inside said flexible hose whereby one end of said tether is connected to said pipe and the other end of said tether is connected to said nozzle. Zima et al rather employs a spring reel assembly for retraction of the hose and coupling assembly. Nordin teaches a similar vehicle exhaust system hose and coupling assembly employing a tether extending inside of the flexible hose and connected to an upper pipe coupling (16) at one end and to a coupling nozzle at the other end. The tether is used for retraction of the hose and coupling assembly. In view of Nordin's teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Zima et al to include a tether extending inside of the flexible hose (42) and connected to the upper pipe at one end and the coupling nozzle (62) at the other end in order to provide an alternative means by which to retract the hose and coupling assembly.

Claims 9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zima et al (US 5,453,048) in view of Nordin (US 5,518,447), and further in view of Mommsen (US 3,695,646).

With respect to claim 9, 11 and 13, Zima et al in view of Nordin fail to teach that said connector is a snap ring connected to said nozzle. Zima et al employs a garter spring seated in a groove of the nozzle that acts to retain an exhaust pipe adapter (60) connected to an exhaust pipe (54), said exhaust pipe adapter containing a seat (60.1) sized to accommodate said snap ring. Mommsen teaches a similar coupling between vehicle exhaust components wherein a snap ring (30) is used to removably retain the ball portion (22) of one pipe within another pipe. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Zima et al to employ a snap ring assembly as taught by Mommsen in order to provide an alternative means by which to removably retain Zima et al's exhaust pipe adapter.

#### ***Allowable Subject Matter***

Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Note that the allowability of claims 15 and 16 is contingent upon overcoming the above-noted objection to claim 15.

### ***Response to Arguments***

Applicant's arguments filed 8/14/06 have been fully considered but they are not persuasive.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Hewitt whose telephone number is 571-272-7084.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMH  
11/6/06

  
**JAMES M. HEWITT**  
**PRIMARY EXAMINER**